

Regular Session, 2010

HOUSE BILL NO. 195

BY REPRESENTATIVES MILLS, WOOTON, PATRICIA SMITH, BARROW, BURRELL, CARMODY, DIXON, EDWARDS, HARDY, GIROD JACKSON, KATZ, LAFONTA, LOPINTO, MONTOUCET, NORTON, NOWLIN, ST. GERMAIN, STIAES, THIERRY, AND WILLIAMS AND SENATOR MARTINY

PAROLE: Changes the number of votes required to grant parole to certain offenders under specified conditions

1 AN ACT

2 To amend and reenact R.S. 15:574.2(B), (C), (D), (E), and (F) and to enact R.S.
3 15:574.2(G), relative to the Board of Parole; to change the number of votes required
4 to grant parole to offenders convicted of certain offenses; to provide for
5 applicability; to provide for criteria; to provide for the granting of parole to certain
6 offenders participating in work release programs; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 15:574.2(B), (C), (D), (E), and (F) are hereby amended and reenacted
9 and R.S. 15:574.2(G) is hereby enacted to read as follows:

10 §574.2. Board of Parole; membership; qualifications; vacancies; compensation;
11 domicile; venue; meetings; quorum; panels; powers and duties; transfer of
12 property to board; representation of applicants before the board; prohibitions

13 * * *

14 B.(1) The domicile of the board shall be in the parish of East Baton Rouge,
15 city of Baton Rouge, Louisiana.

16 ~~(2) The board shall meet in a minimum of three-member panels at the adult~~
17 ~~correctional institutions on regular scheduled dates, not less than every three months.~~

18 ~~Such dates are to be determined by the chairman. Three votes of a three-member~~

1 ~~panel shall be required to grant parole, or, if the number exceeds a three-member~~
2 ~~panel, a unanimous vote of those present shall be required to grant parole.~~
3 ~~Notwithstanding any other provision of law in this Section, no person convicted of~~
4 ~~a crime of violence against any peace officer as defined in R.S. 14:30(B), shall be~~
5 ~~granted parole except after a meeting, duly noticed and held on a date to be~~
6 ~~determined by the chairman, at which at least five of the seven members of the board~~
7 ~~are present and all members present vote to grant parole.~~

8 ~~(3)(2)~~ Venue in any action in which an individual committed to the
9 Department of Public Safety and Corrections contests any action of the board is East
10 Baton Rouge Parish. Venue in a suit contesting the actions of the board shall be
11 controlled by this Part and R.S. 15:571.15 and not the Code of Criminal Procedure,
12 Title XXXI-A, Post Conviction Relief, or Title IX, Habeas Corpus, regardless of the
13 captioned pleadings stating the contrary.

14 C.(1) The board shall meet in a minimum of three-member panels at the
15 adult correctional institutions on regular scheduled dates, not less than every three
16 months. Such dates are to be determined by the chairman. Except as provided for
17 in Paragraph (2) of this Subsection, three votes of a three-member panel shall be
18 required to grant parole, or, if the number exceeds a three-member panel, a
19 unanimous vote of those present shall be required to grant parole.

20 (2) The board may grant parole with two votes of a three-member panel, or,
21 if the number exceeds a three-member panel, a majority vote of those present if all
22 of the following conditions are met:

23 (a) The offender has not been convicted of a crime of violence as defined in
24 R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, or convicted of an offense
25 which would constitute a crime of violence as defined in R.S. 14:2(B) or a sex
26 offense as defined in R.S. 15:541, regardless of the date of conviction.

27 (b) The offender has not committed any disciplinary offenses in the twelve
28 consecutive months prior to the parole eligibility date.

1 (c) The offender has completed the mandatory minimum of one hundred
2 hours of pre-release programming in accordance with R.S. 15:827.1.

3 (d) The offender has completed substance abuse treatment as applicable.

4 (e) The offender has obtained a GED credential, unless the offender has
5 previously obtained a high school diploma or is deemed by a certified educator as
6 being incapable of obtaining a GED credential due to a learning disability. If the
7 offender is deemed incapable of obtaining a GED credential, the offender must
8 complete at least one of the following: a literacy program, an adult basic education
9 program, or a job skills training program.

10 (f) The offender has obtained a low-risk level designation determined by a
11 validated risk assessment instrument approved by the secretary of the Department
12 of Public Safety and Corrections.

13 (3) Notwithstanding any other provision of law in this Section, no person
14 convicted of a crime of violence against any peace officer as defined in R.S.
15 14:30(B), shall be granted parole except after a meeting, duly noticed and held on a
16 date to be determined by the chairman, at which at least five of the seven members
17 of the board are present and all members present vote to grant parole.

18 ED. In accordance with the provisions of this Part, the Board of Parole shall
19 have the following powers and duties:

20 (1) To determine the time and conditions of release on parole of any person
21 who has been convicted of a felony and sentenced to imprisonment, and confined in
22 any penal or correctional institution in this state.

23 (2) To determine and impose sanctions for violation of the conditions of
24 parole.

25 (3) To keep a record of its acts and to notify each institution of its decisions
26 relating to the persons who are or have been confined therein.

27 (4) To transmit annually, on or before the first day of February, a report to
28 the secretary of ~~public safety and corrections~~ the Department of Public Safety and
29 Corrections, for inclusion in his report to the governor, which report shall include

1 statistical and other data with respect to the determinations and work of the board for
2 the preceding calendar year, research studies which the board may make of
3 sentencing, parole, or related functions, and may include a recommendation of
4 legislation to further improve the parole system of this state.

5 (5) To apply to a district court to issue subpoenas, compel the attendance of
6 witnesses, and the production of books, papers, and other documents pertinent to the
7 subject of its inquiry; to take testimony under oath, either at a hearing or by
8 deposition; and to pay all costs in connection with the board hearings.

9 (6) To consider all pertinent information with respect to each prisoner who
10 is incarcerated in any penal or correctional institution in this state at least one month
11 prior to the parole eligible date and thereafter at such other intervals as it may
12 determine, which information shall be a part of the inmate's consolidated summary
13 record and which shall include:

14 (a) The circumstances of his offense.

15 (b) The reports filed under Articles 875 and 876 of the Louisiana Code of
16 Criminal Procedure.

17 (c) His previous social history and criminal record.

18 (d) His conduct, employment, and attitude in prison.

19 (e) His participation in vocational training, adult education, literacy, or
20 reading programs.

21 (f) Any reports of physical and mental examinations which have been made.

22 (7) To adopt such rules not inconsistent with law as it deems necessary and
23 proper, with respect to the eligibility of prisoners for parole, and to the conditions
24 imposed on persons released on parole.

25 (8) When requested, to notify the chief of police, where such exists, and the
26 sheriff and district attorney of the parish where the individual resides and the
27 conviction occurred. The notification shall be in writing and shall be issued at least
28 seven days prior to the release of any parolees residing within the jurisdiction of the
29 agency.

1 (9) To notify the victim, or the spouse or next of kin of a deceased victim,
2 when the offender is scheduled for a parole hearing. The notification shall be in
3 writing and sent no less than thirty days prior to the hearing date. The notice shall
4 advise the victim, or the spouse or next of kin of a deceased victim, of their rights
5 with regard to the hearing. The notice is not required when the victim, or the spouse
6 or next of kin of a deceased victim, advises the board in writing that such notification
7 is not desired. The victim, or the spouse or next of kin of a deceased victim, shall
8 be allowed to testify at the hearing. The victim, or the spouse or next of kin of a
9 deceased victim, shall be allowed to testify directly, or in rebuttal to testimony or
10 evidence offered by or on behalf of the offender, or both.

11 (10) To adopt rules and regulations to encourage voluntary participation by
12 inmates committed to the Department of Public Safety and Corrections in vocational
13 training, adult education, literacy, and reading programs, through programs
14 established by the department under R.S. 15:828(B). The rules and regulations may
15 include provisions for accelerated parole release time, in addition to the provisions
16 of R.S. 15:574.4(A)(1), for persons who are not otherwise ineligible in R.S.
17 15:574.4(B) and who are otherwise eligible, but no offender shall receive more than
18 ten additional days per month or one hundred eighty days total accelerated parole
19 release time for program participation.

20 (11) To sanction the applicant's disorderly, threatening, or insolent behavior,
21 or use of insulting, abusive, or obscene language or written communication in
22 connection with the application before the board. A decision to sanction may result
23 in the immediate and unfavorable termination of the proceedings and the applicant's
24 right to make future application for parole may be suspended for not more than two
25 years. The applicant shall be informed of the sanction of the board at the
26 commencement of the proceedings.

27 (12) To adopt such rules as it deems necessary and proper with respect to the
28 conduct of parole hearings for the purpose of excluding any person or persons in
29 order to protect the privacy of the victim or victims during parole hearings.

1 ~~D.E.~~ The ~~board of parole~~ Board of Parole established by Act No. 162 of
2 1952, as last amended by Act No. 90 of 1967, is hereby abolished and all books,
3 papers, records, monies, and other property heretofore used or possessed by said
4 board shall be transferred to the board of parole established by the provisions of this
5 Part.

6 E.F.(1) The following persons shall not represent any applicant directly or
7 indirectly, before the board:

8 (a) The executive counsel to the governor.

9 (b) The executive secretary to the governor.

10 (c) Any member of the immediate staff of the governor.

11 (d) Any member of a law firm, law partnership, or law corporation of which
12 a member, associate, or partner is the executive counsel to the governor, the
13 executive secretary to the governor, or a member of the immediate staff of the
14 governor.

15 (2) If an executive counsel, executive secretary, or member of the immediate
16 staff of the governor violates the provisions of this Subsection, such person shall
17 forfeit the office or position held and all emoluments of the office or position. In
18 addition, if a member of a law firm, partnership, or corporation of which such a
19 person is a member, associate, or partner violates the provisions of this Subsection,
20 the office or position held with the governor and all emoluments of said office or
21 position shall be forfeited.

22 F.G.(1) On and after August 15, 1997, no member of the Board of Parole
23 shall transmit any correspondence to, or otherwise confer with, a judge before whom
24 a convicted offender is awaiting sentence to request or recommend any action
25 relating to the sentence imposed upon the offender.

26 (2) Violation of the provisions of this Subsection shall immediately
27 disqualify the member from serving on the board and a vacancy shall be declared.

28 (3) However, no decision of the board shall be nullified or otherwise affected
29 by the participation of a member who has violated this Subsection, except as to a

- 1 decision that involves the offender or any decision rendered after the board is
- 2 notified of the violation and the violation is determined to have occurred.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Mills

HB No. 195

Abstract: Changes the number of votes required to grant parole to offenders convicted of certain offenses under specified conditions.

Present law provides for the Board of Parole, the process for granting parole, and parole eligibility.

Present law provides that the board shall meet in a minimum of three-member panels at the adult correctional institutions on regular scheduled dates, not less than every three months. Three votes of a three-member panel shall be required to grant parole, or, if the number exceeds a three-member panel, a unanimous vote of those present shall be required to grant parole.

Proposed law provides that the parole board may grant parole with two votes of a three-member panel, or, if the number exceeds a three-member panel, a majority vote of those present if all of the following conditions are met:

- (1) The offender has not been convicted of a crime of violence or a sex offense or an offense which would constitute a crime of violence or a sex offense, regardless of the date of conviction.
- (2) The offender has not committed any disciplinary offenses in the 12 consecutive months prior to the parole eligibility date.
- (3) The offender has completed the mandatory minimum of 100 hours of pre-release programming.
- (4) The offender has completed substance abuse treatment as applicable.
- (5) The offender has obtained a GED credential, unless the offender has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a GED credential due to a learning disability. If the offender is deemed incapable of obtaining a GED credential, the offender must complete at least one of the following: a literacy program, an adult basic education program, or a job skills training program.
- (6) The offender has obtained a low-risk level designation determined by a validated risk assessment instrument approved by the secretary of DPS&C.

(Amends R.S. 15:574.2(B), (C), (D), (E), and (F); Adds R.S. 15:574.2(G))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill.

1. Removed provision granting parole for participation in a work release program.
2. Excluded offenders convicted of an offense which would constitute a crime of violence or a sex offense regardless of the date of conviction from proposed law.

House Floor Amendments to the engrossed bill.

1. Made technical corrections.